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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

The relationship of the Committee on Enforced Disappearances with national human rights institutions*

1. The Committee on Enforced Disappearances (hereinafter referred to as "the Committee") considers that close cooperation between the Committee and national human rights institutions is important for the promotion and implementation of the International Convention for the Protection of All Persons from Enforced Disappearance, both at the domestic and the international levels.

2. For this reason, at its fourth session, the Committee decided to appoint a rapporteur to prepare, with the support of the secretariat, a first draft of a document on the relationship of the Committee on Enforced Disappearances with national human rights institutions. At its sixth session, the Committee discussed the first draft and decided to seek comments from national human rights institutions before adoption of the document at its seventh session. The present document takes into account the comments received. The purpose of the present document is to clarify and further develop the Committee's relationship with national human rights institutions, and to enhance their contribution to the promotion and implementation of the Convention both at the domestic and the international levels.

I. Introduction

3. The Committee notes that, in order to fulfil their roles effectively, national human rights institutions should be established, and where necessary strengthened, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (hereinafter referred to as the Paris Principles; A/RES/48/134), and be duly accredited as such by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).

4. The Committee is of the view that all States parties to the Convention should establish and/or strengthen national human rights institutions, with adequate resources and in full compliance with the Paris Principles, and that their mandate should include issues related to the prevention of, and fight against, enforced disappearances.

5. The Committee considers that national human rights institutions, as well as specific national mechanisms with a mandate to promote and protect human rights (e.g. national

* Adopted by the Committee at its seventh session (15–26 September 2014).

preventive mechanisms), have a key role to play in assisting the Committee in fulfilling the different activities that it may carry out in accordance with the Convention.

6. Noting that the Convention is to be fully applied throughout the territory without exception, and that for this purpose the obligations under the Convention are to be implemented by State authorities at all levels, be they a federal organ or an organ of a constituent unit, national human rights institutions are invited to engage with their local or regional counterparts in order to reflect the local situation of the constituent units and to assist national human rights institutions in discharging their functions. The Committee welcomes the information received from local or regional counterparts concerning local situations.

7. At the domestic level, national human rights institutions can promote, and advise the State on, ratification and implementation of the Convention; promote human rights education and training; raise awareness about the Convention, particularly about its urgent action and individual complaints procedures and about the work of the Committee; work on follow-up to, and monitor implementation of, the Committee's concluding observations, Views, recommendations adopted after a country visit, and other decisions; monitor places of detention and oversee the prohibition of secret detention; and monitor, and advise the State on, legislative and policy compliance with the Convention provisions.

8. At the international level, national human rights institutions can encourage and assist the State party to meet its reporting obligations and to make declarations under articles 31 and 32 of the Convention, concerning individual and inter-State communications respectively, in relation to those States parties that have not done so; and provide the Committee with independent information on the implementation of the Convention at the domestic level. When appropriate, national human rights institutions can also raise awareness and promote knowledge of the Convention, in particular at the bilateral and regional levels.

9. The Committee is to ensure that national human rights institutions have the widest possible access to its work. Accordingly, the Committee's secretariat provides national human rights institutions with information in a timely manner and advises on opportunities to engage with the Committee's work. Further, the Committee's secretariat liaises with the ICC Geneva Representative Office, which aims at encouraging national human rights institutions to be more effective in their collaboration with the Committee's work, including by sharing information, publishing the Committee's work, and advising the institutions about opportunities to contribute.

10. The Committee also welcomes representation by national human rights institutions at its sessions and meetings, including by video and/or telephone conference links.

II. The role of national human rights institutions in the reporting procedure under article 29 of the Convention

11. Noting that consideration of State parties' reports by the Committee is based on a constructive dialogue with States parties, the Committee considers it necessary that this be based on information received from the broadest possible constituency, including intergovernmental organizations, civil society actors, national human rights institutions, and specific national mechanisms such as national preventive mechanisms.[1] In this respect, the

[1] Articles 3, 4 and 17–23 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Committee recognizes that all these stakeholders can contribute to all stages of the reporting process under the Convention — including by providing information for the preparation of the list of issues and the public review of States parties' reports, and with regard to follow-up to concluding observations.

12. National human rights institutions are encouraged to provide alternative reports that contain information on the implementation of some or all the provisions of the Convention; comments on the report of the State party and its written replies to the list of issues; and information on the implementation by the State party concerned of the concluding observations of the Committee. National human rights institutions are requested to ensure that their reports are submitted within the deadlines provided by the secretariat, and that they are submitted in accordance with the relevant guidelines.

A. State reporting requirements under the Convention

13. The Committee considers that national human rights institutions have an important role to play in encouraging their respective States to meet their reporting obligations under article 29 of the Convention.

14. The Committee encourages national human rights institutions to conduct human rights education and awareness programmes, with a view to informing and sensitizing State officials and other stakeholders, including civil society actors, about the reporting obligations of States under article 29 of the Convention.

B. Consultations and inputs to the State party report

15. The Committee recognizes the value of States parties organizing broad national consultations when drafting their reports under the Convention. In this regard, the Committee also recognizes the value of States making their reports available in advance to national human rights institutions and to all sectors of civil society, and of inviting all stakeholders for consultations thereon. However, the role played by national human rights institutions in providing information for the State party's report should not exclude the possibility of submitting an alternative report to the Committee.

C. Contributions to the preparation of the list of issues

16. Receiving information from national human rights institutions at an early stage of the reporting process is critical for the Committee's work. Accordingly, the Committee invites national human rights institutions to submit written contributions to the preparation of the list of issues.

17. To facilitate the timely submission of national human rights institution reports, the Committee's secretariat provides the institution concerned with advance notice of reporting schedules and advice on opportunities to contribute thereto.

D. Contributions to and during the Committee sessions

18. The Committee welcomes the submission of alternative reports and oral presentations by national human rights institutions, and the presence of such institutions as observers during the examination of the State party's report.

19. National human rights institutions have the possibility of addressing the Committee in formal closed meetings and informal private meetings. Such meetings allow for

interactive discussions and the sharing of updated additional information between the Committee and the national human rights institution. There are additional opportunities for national human rights institutions to provide the Committee with detailed information during informal private meetings. The privacy of the meeting is aimed at ensuring that national human rights institutions can engage freely and effectively with the Committee without fear of intimidation or reprisal.

E. Contributions to follow-up to concluding observations

20. Under the Paris Principles, national human rights institutions have a specific mandate to monitor and report on the compliance by their respective State with international human rights instruments, including the compliance with recommendations from international human rights bodies. National human rights institutions can provide the Committee with written information, including an evaluation of the measures taken by the State party to implement the concluding observations that were selected by the Committee for the follow-up procedure. These contributions should be submitted to the Committee at the time that the State party is due to submit follow-up information on the selected concluding observations (namely one year after their adoption), or once the State party's follow-up information is made public. Such information should concern the implementation of recommendations highlighted in the concluding observations for consideration under the follow-up procedure.

21. The Committee welcomes and supports the important role of national human rights institutions with respect to supporting the follow-up to the Committee's concluding observations in the country, while always recalling that the duty to implement the Convention rests with States themselves. National human rights institutions can support implementation in a number of ways, which include the following: broadly disseminating the concluding observations; organizing follow-up consultations involving the Government and civil society actors, as well as parliament and other bodies; and advising their respective State to mainstream concluding observations throughout national planning and legislative review processes. Furthermore, the Committee encourages national human rights institutions to use their annual reports to monitor implementation of the Committee's concluding observations.

22. To ensure the most effective involvement of national human rights institutions in the Committee's follow-up procedure, the Committee's secretariat provides those institutions concerned with advance notice of follow-up procedure schedules and with advice on opportunities to contribute thereto.

F. Contributions under the review procedure (examination in the absence of a State report)

23. The Committee encourages national human rights institutions to submit alternative reports in cases in which the Committee has decided to examine a State party in the absence of a State report. National human rights institutions will be provided with the same opportunities to contribute as under the regular reporting procedure, including in relation to the list of issues if the Committee decides to adopt one. The examination of a State party in the absence of a report is conducted in public session and the concluding observations will be released publicly after adoption, in line with the regular reporting procedure as set out in article 29.

III. The role of national human rights institutions in relation to the urgent action procedure under article 30 of the Convention

24. In accordance with article 30 of the Convention, either the relatives of a person who has reportedly been enforcedly disappeared, their legal representatives, their counsel or any other person authorized by them, as well as any other person having a legitimate interest, may submit to the Committee a request that a person be sought and found as a matter of urgency.

25. In this regard, national human rights institutions may have a particular role to play in assisting the persons mentioned in the previous paragraph to submit such requests.

26. Authors of urgent action requests, including national human rights institutions, are to ensure that the Committee receives updated information on these requests in a timely fashion.

27. In cases where the Committee requests a State party to take all necessary measures, including interim measures, to locate and protect a person who has been disappeared, national human rights institutions may have, where appropriate, a particular role in monitoring the implementation of those measures.

IV. The role of national human rights institutions in relation to the individual communications procedure under article 31 of the Convention

28. In accordance with article 31 of the Convention, any individual subject to the jurisdiction of a State party who claims to be the victim of a violation of the provisions of the Convention by such State party or by others acting on its behalf may submit an individual communication to the Committee for its consideration.

29. In this regard, national human rights institutions can play an important role in providing assistance to the alleged victims of these violations by submitting individual communications to the Committee on any violation of the rights protected by the Convention.

30. Authors of individual communications, including national human rights institutions, are strongly encouraged to submit follow-up information on the implementation of the Committee's Views and interim measures, when appropriate.

31. Once the Views have been made public, it is important that national human rights institutions verify, or assist authors in verifying, that implementation has indeed taken place, including, when appropriate, by suggesting to the State party legislative or administrative reforms.

V. The role of national human rights institutions with regard to country visits by the Committee under article 33 of the Convention

32. The Committee considers that national human rights institutions can play an important role in providing to it reliable information indicating that a State party is seriously violating the provisions of the Convention, which may trigger a visit by the Committee to the State party concerned under the terms of article 33 of the Convention.

33. National human rights institutions can also play an important role before and during the country visit of the Committee, by providing updated information and by participating in, or facilitating the participation of victims of enforced disappearance in, the meetings or hearings that the Committee may undertake to determine facts or issues relevant to the assessments of the situation in the State party concerned.

34. National human rights institutions are strongly encouraged to transmit to the Committee information on the status of implementation of the recommendations made by the Committee to the State party concerned in relation to the country visit, as well as relevant reliable information on any developments that may have taken place after the country visit.

VI. The role of national human rights institutions in bringing to the attention of the Committee information related to widespread or systematic practices of enforced disappearance under the terms of article 34 of the Convention

35. The Committee considers that national human rights institutions can also play a very important role in providing to it information containing well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in the territory under the jurisdiction of a State party, which may trigger the bringing, by the Committee, of such information to the attention of the General Assembly in accordance with article 34 of the Convention.

VII. Input on the drafting and use of the Committee's general comments

36. The Committee encourages national human rights institutions to provide input on general comments under consideration, and for the days of general discussion that it may organize. In order to ensure the most effective contributions from national human rights institutions in these processes, the Committee will announce, as early as possible, the general comments that it will consider or the days of general discussion that it intends to organize. National human rights institutions are encouraged to make use of the Committee's general comments in their advocacy efforts.

VIII. The role of national human rights institutions in addressing women's and children's rights and in integrating a gender perspective

37. The impact of enforced disappearance on women and children is of particular concern to the Committee. National human rights institutions can play a very important role in providing the Committee with specific information on violations of women's and children's rights and, when available, statistical data on cases of enforced disappearance disaggregated by — inter alia — sex and age, when submitting information in the context of articles 29, 30, 31, 33 and 34 of the Convention.

38. National human rights institutions are encouraged to integrate a gender perspective into their submissions, highlighting in particular the obstacles to the equal enjoyment of rights by male and female victims of enforced disappearance.

IX. The role of national human rights institutions in bringing to the attention of the Committee reports on reprisals

39. Recalling General Assembly resolution 68/171, and in order to protect national representatives of human rights institutions who have sought to address and/or cooperate with the Committee, or who have addressed and/or cooperated with the Committee, from intimidation, persecution or reprisal, including measures of a legislative, administrative or financial nature, or of any other nature, which may curtail the independence of the national human rights institution, the Committee may consider, at its discretion or at the request of the author, that the information, documentation and statements received should be kept confidential, and decide not to make them public. In these cases, the Committee will decide on how to use such information.

40. The Committee also considers that national human rights institutions play a very important role in providing to it reports on cases of intimidation, persecution or reprisal against individuals who have sought to address and/or cooperate with or have addressed and/or cooperated with the Committee by submitting information relating to the State parties' reporting procedure under article 29, to urgent actions, or to individual communications, or information relevant to violations of the Convention, or by having met with the Committee during its country visits. In this regard, the Committee has decided to appoint a rapporteur on reprisals.

X. Enhancing global outreach

41. The Committee welcomes the cooperation and input of national human rights institutions and notes that logistical and financial constraints sometimes limit their possibilities of attending its sessions. The Committee therefore welcomes and encourages the use of technology to enhance contributions from all regions during its sessions, such as video or telephone conference links and webcasting.

42. The Committee, within its power, will ensure that its sessions are accessible by persons with disabilities so that they can fully and effectively participate in its work, and that reasonable accommodation will be provided to them.

43. The Committee encourages national human rights institutions to make independent efforts to translate the Committee's documents into local languages.

44. The Committee also encourages national human rights institutions, where relevant, to advocate for the ratification of the Convention and/or for acceptance by States parties of the competence of the Committee under articles 31 and 32 of the Convention.

45. Finally, the Committee welcomes and encourages the efforts of national human rights institutions to enhance outreach and awareness, including through training, regarding the Convention and the tools that it provides to the Committee, and also regarding its concluding observations — in particular those stemming from the review procedure of a State party in the absence of a report — and its Views, recommendations made in the context of country visits, and general comments. The Committee particularly encourages national human rights institutions to draw upon the International Day of the Victims of Enforced Disappearances, observed on 30 August, to carry out their outreach and awareness activities.

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